



**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
OFFICE OF THE ZONING ADMINISTRATOR**

August 18, 2021

Martin P. Sullivan  
Sullivan & Barros, LLP  
1155 15<sup>th</sup> Street, NW, Suite 1003  
Washington, DC 20005

**Re: 45 Q Street, SW (Square 657, Lot 815)**

Dear Marty Sullivan:

This letter confirms the discussion you had with zoning technician Chyna Barber on October 15, 2020, regarding a proposed project at the property located at 45 Q Street, SW (the “**Property**”). The Property is in the CG-4 Zone and was recently approved by the Zoning Commission for Design Review in case #20-32 [the Order has not yet been published]. You are proposing to construct a new mixed-use project with approximately 9,414 square feet of retail space, 73,273 square feet of hotel space with 190 hotel rooms, and 60 residential dwelling units (the “**Project**”). You have asked for a general review of the Project and applicable development standards.

Floor Area Ratio

Pursuant to K § 504.3, the permitted FAR in the CG-4 zone is as follows: (a) The maximum permitted FAR in the CG-4 zone shall be 6.0 or 7.2 FAR with IZ, with a maximum non-residential FAR of 3.0; (b) A building shall be allowed a maximum FAR of 8.2; provided that the additional 1.0 FAR shall be devoted solely to residential uses.

The proposed Project is an IZ development with residential FAR of over 1.0. Accordingly, you are permitted to achieve the maximum FAR. Based on the plans, I have determined that the proposed Project does not exceed the 8.2 FAR limit.

You also requested clarification as to whether certain elements count towards the GFA and FAR. Subtitle B governs which elements count in the GFA and FAR:

- B-304.7 GFA shall include basements, elevator shafts, and stairwells at each story; floor space used for mechanical equipment (with structural headroom of six feet, six inches (6 ft., 6 in.), or more); penthouses (unless otherwise specified); attic space (whether or not a floor has actually been laid, providing structural headroom of six feet, six inches (6ft., 6 in.), or more); interior balconies; and mezzanines.

- B- 304.8 GFA shall not include cellars, exterior balconies that do not exceed a projection of six feet (6 ft.) beyond the exterior walls of the building, all projections beyond the lot line that may be allowed by other Municipal codes, vent shafts, and pipe chase shafts above the ground floor, atriums above the ground floor, ramps on the ground floor leading down to areas of parking on a lower level; and in residential zones, the first floor or basement area designed and used for parking or recreation spaces provided that not more than fifty percent (50%) of the perimeter of that space may be comprised of columns, piers, walls, or windows, or similarly enclosed.

Accordingly, elements such as the elevators and stairs do count towards the FAR, as would a mezzanine above the hotel lobby. The proposed drive aisle and access to the loading and parking area would not count towards the FAR.

#### Building Height

Subtitle K § 504.4, the maximum permitted building height, not including the penthouse, in the CG-4 zone shall be ninety feet (90 ft.) and one-hundred feet (100 ft.) with IZ. Pursuant to B § 307.6 In those zones in which the height of a building is permitted to be ninety feet (90 ft.) or greater, the BHMP shall be established at the level of the curb, opposite the middle of the front of the building and the building height shall be measured from the BHMP to the highest point of the roof excluding parapets not exceeding four feet (4 ft.) in height.

The plans show that the Building height is limited to one hundred feet (100 ft.). Accordingly, the proposed Project is in compliance with the CG-4 height limitations.

#### Height Act

The height act limits building height to the measurement of the right of way on which the building fronts, plus twenty feet (20 ft.). The Building fronts on Half Street for zoning purposes, which has a right of way of eighty feet (80 ft.). Accordingly, the proposed building height complies with the Height Act as the right of way, plus twenty feet (20 ft.) permits a building height of up to one hundred feet (100 ft.). Penthouses do not count in the building height measurement for purposes of compliance with the Height Act.

#### Penthouse Setbacks

You are proposing a penthouse story. Pursuant to K § 504.5 The maximum permitted height of a penthouse in the CG-4 zone shall be twenty feet (20 ft.), and the maximum number of stories within the penthouse shall be one (1) plus a mezzanine, except that a second story for penthouse mechanical space shall be permitted. Pursuant to C § 1502.1, the penthouse and any other roof structures such as guardrails must be set back a distance equal to their respective heights from the front and rear of the Property, as well as any sides bordering an open court. The structures are also required to have a ½:1 setback from any side of the building since it is not adjoining another building.

According to the plans, you are proposing penthouse habitable space. The penthouse has a height of twelve feet (12 ft.) and will be set back at least twelve feet (12 ft.) from the front and rear and sides of the Building. There are no open courts proposed, only closed courts, which do not require setbacks.

#### Penthouse Use

Pursuant to C § 1500.3 A penthouse may house mechanical equipment, or any use permitted within the zone, except that a nightclub, bar, cocktail lounge, or restaurant use shall only be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9.

You are proposing bar space in a portion of the proposed penthouse. **Accordingly, you will need to request BZA Special Exception relief.**

#### Lot Occupancy

Pursuant to K § 504.6, the maximum permitted lot occupancy for residential buildings in the CG-4 zone is seventy-five percent (75%), and eighty percent (80%) for IZ developments.

The residential lot occupancy limitations begin on the first level with residential use and apply to every level above that. The Project proposes residential use beginning on the seventh level. The maximum proposed residential lot occupancy is 79%. Accordingly, the proposal meets the lot occupancy requirements. Note, there is no lot occupancy limitation for non-residential floors.

#### Rear Yard Setback

Pursuant to K § 504.8 For the CG-4 zone, a rear yard is required only for residential uses. If required, the rear yard shall be: (a) A minimum two and one-half inches (2.5 in.) per one foot (1 ft.) of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than twelve feet (12 ft.) shall be provided; (b) Established no lower than the first level of residential use; and (c) Measured as follows: (1) Where a lot abuts an alley, the rear yard may be measured from the center line of the alley to the rear wall of the building or other structure; and (2) Where a lot does not abut an alley, the rear yard shall be measured from the rear lot line to the rear wall of the building or other structure.

You are not providing any rear yard setback and will therefore need relief from the rear yard requirements of the CG-4 zone. **You were granted relief from the rear yard requirements pursuant to X § 603.1 which permits flexibility from certain development standards as part of a design review approval.**

### Courts

You are providing two closed courts. For residential uses, the court width requirement is 4 in./1 ft. of the height of the court (at least 15 ft.) and the area is twice the square of the required court width (at least 350 sq. ft.). For non-residential uses, the court width requirement is 2.5 in./1 ft. of the height of the court (at least 12 ft.) and the area is twice the square of the required court width (at least 250 sq. ft.).

The court requirement, based on a court height of 75 ft., is 25 feet in width and 1,280 square feet in area. For the larger court, you are providing twenty-five feet one inch (25 ft. 1 in.) in width and 1,957 in area. The larger court meets the closed court requirements.

There is a smaller closed court on the north side which does not meet the closed court requirements, as it is 15 feet and eight inches wide and less than 1,280 square feet. **You were granted flexibility from the court requirements pursuant to X § 603.1 which permits flexibility from certain development standards as part of a design review application.**

### Parking

The chart in C § 701.5 governs the parking requirements for retail, residential, and lodging use.

#### *Hotel*

Lodging uses are required to provide 0.5 spaces per 1,000 square feet in excess of 3,000 square feet. The proposed hotel GFA is 73,273 square feet (this includes the lobby space and back of house space). Accordingly, the hotel use generates a requirement of 35 vehicle parking spaces.

#### *Retail*

Retail uses are required to provide 1.33 spaces per 1,000 square feet in excess of 3,000 square feet. The proposed retail GFA is 9,414 square feet. Accordingly, the retail use generates a requirement of 9 vehicle parking spaces.

#### *Residential*

The parking requirement for a multi-family residential building is one space for every three (3) units over (4). You are proposing up to 60 residential units. Accordingly, the residential use generates a requirement of 19 vehicle parking spaces.

The parking requirement may be reduced by fifty percent (50%) if the property is within one-half mile of a Metrorail Station (C § 702.1). The Navy Yard-Ballpark Metro Station is within one-half mile of the Subject Property and therefore any parking

requirement may be reduced by fifty percent (50%) for a total of 32 parking spaces (63 spaces/2= 31.5 spaces).

You are providing a total of 55 parking spaces with tandem parking and lifts, in one underground cellar level parking garage. Only 24 of the spaces can count towards the parking requirement as the rest don't meet the access requirements. **You were granted parking relief as part of the design review process.**

#### Bicycle Parking

The chart in C § 802.1 governs bicycle parking requirements for lodging, retail, and residential uses.

#### *Lodging*

The bicycle parking requirement for lodging is one long-term space for every 10,000 square feet and one short-term space for every 40,000 square feet. Based on a total GFA of 73,273 square feet, the lodging use requires 7 long-term and 2 short-term bicycle parking spaces.

#### *Retail*

The bicycle parking requirements for retail use are 1 long-term space for every 10,000 square feet and one short-term space for every 3,500 square feet. Based on a total GFA of 9,414 square feet, the retail use requires 1 long-term and 3 short-term bicycle parking spaces.

#### *Residential*

All residential uses with eight (8) or more dwelling units shall provide one (1) long-term bicycle parking space per three (3) units and one short-term bicycle parking space per 20 units. For a residential development with 60 units, the requirement would be 20 long-term spaces and 3 short-term spaces.

You are required to provide 28 total long-term bicycle parking spaces and eight short-term bicycle parking spaces. You are providing 38 long-term bicycle parking spaces and 10 short-term bicycle parking spaces. Accordingly, the Project complies with the bicycle parking requirements.

#### Loading

The chart in C § 901.1 governs bicycle parking requirements for lodging, retail, and residential uses.

#### *Lodging*

A hotel use with over 50,000 sq. ft. but less than 100,000 sq. ft. requires 2 loading berths.

#### *Retail*

Retail uses between 5,000 square feet and 20,000 square feet require 1 loading berth.

### *Residential*

Residential uses of more than 50 dwelling units require 1 loading berth and 1 service delivery space.

You are providing 1 berth and 1 service delivery space. Pursuant to C § 901.8, where two (2) or more uses share a building or structure, the uses may share loading as long as internal access is provided from all shared uses requiring loading. As internal access is provided from all shared uses, all uses may share the loading berth. But as the hotel use requires a second loading berth, you will need variance relief for one loading berth. **You obtained this variance relief during the design review process.**

### Changing Facilities

A lodging use is considered a residential use for FAR purposes in the CG-4 zone. The regulations governing changing facilities for bicycle parking only apply to non-residential uses that occupy more than 25,000 square feet in gross floor area (C § 806). Accordingly, as the retail square footage is less than 25,000 sqft, it is acceptable to have bicycle parking without any showers or lockers.

### Green Area Ratio- GAR

Pursuant to K § 504.12, the minimum green area ratio in the CG-4 zone is 0.2. In the meeting, you noted that you will meet the minimum GAR requirement.

### Plaza

Pursuant to K § 504.13, within the CG-4 zone, a plaza comprising eight percent (8%) of the lot area shall be provided for development on a lot of greater than ten thousand square feet (10,000 sq. ft.), in accordance with the provisions of Subtitle C, Chapter 17. You are not providing any plaza space. Accordingly, the Project requires relief from this provision. **You obtained this variance relief as part of the design review process.**

### Inclusionary Zoning

Pursuant to C § 1001.5 except for new penthouse habitable space as described in Subtitle C § 1500.11, the requirements of this chapter shall not apply to hotels, motels, or inns. Accordingly, the residential FAR for the purposes of calculating the IZ requirements, will not include hotel GFA, only residential GFA. But the IZ requirement will still be based on the bonus FAR utilized, if that is greater than 8% of the residential net square footage. In this case, you are utilizing the full bonus density of 1.2 FAR and the IZ requirement will be 50% of the bonus FAR utilized, multiplied by the ratio of net: gross residential square footage.

### Summary

Based on the attached plans, I find that the proposed Project complies with the General Zoning Requirements and the specific CG-4 zone requirements—**other than the areas requiring flexibility or relief from the Zoning Commission as part of the Design Review:**

- Parking (Special Exception pursuant to C § 703.2)
- 1 Loading Berth (Variance Relief)
- Penthouse Use (Special Exception pursuant to C § 1500.3(c))
- Plaza Requirement (Variance Relief)

Flexibility pursuant to X § 603.1:

- Rear yard
- Closed Court

**In addition, as you are proposing bar space in a portion of the proposed penthouse, you will need to request BZA Special Exception relief.**

The Inclusionary Zoning review will be performed during permitting and you have informed us that you will comply. When you file the plans for a building permit, I will approve drawings consistent with the plans and plat attached to this letter.

Please feel free to contact me if you have any questions.

Sincerely, Matthew Le Grant  
Matthew Le Grant  
Zoning Administrator

Attachments: Plat dated 10-19-20  
Plan Set dated 3-29-21

Zoning Technician: Chyna Barber

**Disclaimer:** This letter is issued in reliance upon, and therefore limited to, the questions asked, and documents submitted in support of the request for a determination. The determinations reached in this letter are made based on the information supplied, and the laws, regulations, and policy in effect as of the date of this letter. Changes in the applicable laws, regulations, or policy, or new information or evidence, may result in a different determination. This letter is **NOT** a final decision of the Zoning Administrator that may be appealed under Section Y-302.1 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations), but instead is an advisory statement of how the Zoning Administrator would rule on an application if reviewed as of the date of this letter. Therefore, this letter does **NOT** vest an application for zoning or other DCRA approval process, which may only occur as part of the review of an application submitted to DCRA. This determination is limited to an interpretation of the Zoning Regulations, and I am not making any representations as to Building Code requirements or other D.C. laws.

File: Det Let re 45 Q St SW to Sullivan 8-18-21